

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

WARREN BOWDEN	)	
	)	
Plaintiff	)	Cause No.: 1:13-CV-1881
	)	
vs.	)	
	)	
HERITAGE TECHNOLOGIES, LLC	)	
d/b/a MICRONUTRIENTS, INC.	)	
	)	
Defendant	)	

COMPLAINT FOR DAMAGES AND REQUEST FOR JURY TRIAL

Plaintiff, by counsel, and as his Complaint for Damages against Defendant, states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Warren Bowden, is a resident of Marion County in the State of Indiana and a former employee of Defendant.

2. Defendant, Heritage Technologies, LLC d/b/a Micronutrients, Inc. (“hereinafter referred to as “Micronutrients”), is an employer as defined by 42 U.S.C. § 2000e(b) and conducts business in the State of Indiana.

3. Mr. Bowden filed a Charge of Discrimination (Charge No. 470-2013-02120) with the Equal Employment Opportunity Commission on or around May 9, 2013 alleging, *inter alia*, that Defendant had violated the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101 et seq.

4. The Equal Employment Opportunity Commission issued to Plaintiff its right to sue letter dated September 9, 2013.

5. Mr. Bowden invokes this Court's federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a).

6. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

#### GENERAL FACTS & SPECIFIC ALLEGATIONS

7. Mr. Bowden was employed by Defendant as lab tech since 2003.

8. Plaintiff suffers from a disability as defined by the Americans with Disabilities Act in that he is hearing impaired.

9. At various times throughout his employment, Defendant disciplined Plaintiff for failing to evacuate the building when the fire alarm sounded and threatened to terminate him in the future.

10. As a reasonable accommodation for his disability, Plaintiff requested that a flashing light be installed to alert him to the alarm.

11. Defendant's vice president required Plaintiff to have his hearing loss evaluated by an audiologist. The results confirmed that Plaintiff suffered from severe hearing loss and the audiologist recommended that he be accommodated by a flashing light.

12. Defendant continued to deny Plaintiff's request for accommodation and informed him he would be terminated for future violations.

13. Plaintiff was then placed in a less favorable shift and subsequently terminated.<sup>1</sup>

14. Plaintiff was able to perform the essential elements of his job with reasonable accommodation.

15. Defendant's decision to change to change Plaintiff's shift and subsequently terminate him was motivated by Plaintiff's disability and/or perceived disability.

---

<sup>1</sup> Plaintiff has a related charge of retaliation pending with the EEOC and intends to amend this complaint upon receiving the right to sue.

16. As a result of Defendant violating Plaintiff's rights as protected under the Americans with Disabilities Act, Plaintiff sustained damages including, but not limited to, lost pay and benefits, mental and emotional anguish, attorney fees and costs.

WHEREFORE, Plaintiff prays for judgment against Defendant, for an award of lost wages and benefits, compensatory damages, punitive damages, attorney fees and costs incurred herein, and for all other appropriate relief.

Respectfully submitted,

HENN HAWORTH CUMMINGS

/s/ Paul J. Cummings  
David M. Henn, 18002-49  
Paul J. Cummings, 22713-41

#### REQUEST FOR JURY TRIAL

Plaintiff, by counsel, requests that this matter be tried by jury.

Respectfully submitted,

HENN HAWORTH CUMMINGS

/s/ Paul J. Cummings  
David M. Henn, 18002-49  
Paul J. Cummings, 22713-41

HENN HAWORTH CUMMINGS  
625 North Madison Avenue, Suite A  
Greenwood, Indiana 46142  
317-885-0041  
888-30806503 Fax